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In re Application of:
ENGSTROM, Eric :
U.S. Application No.: 10/551,254 :
PCT No.: PCT/US2004/010051 :
International Filing Date: 30 March 2004 :
Priority Date: 31 March 2003 :
Attorney's Docket No.: 109909-137147 :
For: A WIRELESS MOBILE PHONE :
WITH AUTHENTICATED MODE :
OF OPERATION INCLUDING :
HEART BEAT PROFILE BASED :
AUTHORIZATION :

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to the "Petition Under 37 CFR 1.182" filed 10 April 2007. Applicant has submitted the required \$400 petition fee.

BACKGROUND

On 30 March 2004, applicant filed international application PCT/US2004/010051. The international application claimed a priority date of 31 March 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 September 2005.

On 28 September 2005, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 12 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 26 June 2006, applicants filed a "Response To Notice Of Missing Requirements" accompanied by a Transmittal Form, a Fee Transmittal Form (with check in payment of the required surcharge), an executed declaration, and a copy of the Notification Of Missing Requirements. However, the Transmittal Form, Fee Transmittal Form, and the caption of the "Response To Notice Of Missing Requirements" all misidentified the application number to

which they were directed as 10/881,254. Accordingly these materials were placed in U.S. application file 10/881,254.

On 10 April 2007, applicant filed the petition under 37 CFR 1.182 considered herein. The petition requests that the materials filed on 26 June 2006 be treated as having been filed in the present application on such date as a timely response to the Notification Of Missing Requirements.

DISCUSSION

The petition under 37 CFR 1.182 requests that the materials filed on 26 June 2006 (misdirected to application number 10/881,254) be treated as having been filed in the present application, 10/551,254, on 26 June 2006 as a timely response to the Notification Of Missing Requirements mailed 12 May 2006. Granting of this petition is required in order to avoid abandonment of the present application.

The required petition fee accompanied the petition. In addition, a review of the documents filed 26 June 2006 confirms that the proper application number was included therein, specifically, on the copy of the Notification Of Missing Requirements included with such submission. Also, the front page of the executed declaration lists the international application applicable to the present national stage application.

Applicant's present submission satisfies the requirements for a grantable petition under 37 CFR 1.182. Accordingly, the "Response To Notice Of Missing Requirements" and accompanying materials (including the executed declaration and the surcharge payment) will be treated as having been filed in the present application, 10/551,254, on 26 June 2006 as a timely response to the Notification of Missing Requirements mailed 12 May 2006.

A review of the declaration confirms that the declaration complies with the requirements of 37 CFR 1.497.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The "Response To Notice Of Missing Requirements" and accompanying materials, including the executed declaration and surcharge payment, will be treated as having been filed in the present application on 26 May 2006.

The declaration filed 26 June 2006 satisfies the requirements of 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 June 2006.



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